



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

DCP:NMA
F. #2020R00589

*271 Cadman Plaza East
Brooklyn, New York 11201*

March 4, 2022

By ECF

Michael Padden, Esq.
Federal Defenders of New York
1 Pierrepont Plaza, 16th Floor
Brooklyn, New York 11201

Re: United States v. Steven Carter
Criminal Docket No. 20-CR-589 (WFK)

Dear Mr. Padden:

The government submits this letter to notify you that the government intends to introduce at trial evidence related to the defendant's prior adjudication for possession of a firearm pursuant to Federal Rule of Evidence 404(b). This evidence is also the subject of a motion in limine that the government anticipates filing today.

Pursuant to Federal Rule of Evidence 404(b), evidence of other crimes, wrongs, and acts, while not admissible to prove propensity to commit a crime, is admissible to prove "motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident." Fed. R. Evid. 404(b). Here, the evidence of the defendant's prior firearm possession tends to show that the defendant had both opportunity and the ability to access such firearms, and that such possession involved no mistake in that the possession was not inadvertent and involved no accident. See, e.g., United States v. Slaughter, 248 F. App'x 210, 212 (2d Cir. Sept. 20, 2007); see also United States v. Barris, 377 F. App'x 93, 95 (2d Cir. May 17, 2010) (affirming admission "of evidence concerning [defendant's] prior arrest and conviction for firearms possession" in § 924(c) prosecution); United States v. Barret, No. 10-CR-809 (KAM), 2011 WL 6704862, at *19 (E.D.N.Y. Dec. 21, 2011) ("The court finds that the proffered firearms conviction evidence . . . is relevant to the issues of opportunity, absence of mistake and access to firearms."), aff'd, 677 F. App'x 21 (2d Cir. 2017); United States v. Taylor, 767 F. Supp. 2d 428,

438 (S.D.N.Y. 2010) (“The Court finds that [defendant’s] prior gun possession is directly relevant to the issue of opportunity and absence of mistake and also admissible to demonstrate [defendant’s] ability to access such a weapon.”).

Very truly yours,

BREON PEACE
United States Attorney

By: /s/ Nick M. Axelrod
Nick M. Axelrod
Assistant U.S. Attorney
(718) 254-6883

cc: Clerk of the Court (WFK) (by ECF)